

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TURBOCODE LLC,

Plaintiff,

v.

ADVANTECH CO., LTD.,

Defendant.

C.A. No. 4:24-cv-524-SDJ

JURY TRIAL DEMANDED

PATENT CASE

STATUS REPORT REGARDING SERVICE OF SUMMONS AND COMPLAINT

Plaintiff TurboCode LLC (“TurboCode”) respectfully submits this status report in response to the Court’s Order (Dkt. No. 8) requiring TurboCode to provide status updates every thirty (30) days of TurboCode’s continued attempts to serve Advantech.

Defendant Advantech Co., Ltd. (“Advantech”) is a Taiwanese company with its headquarters located in Taipei, Taiwan. (Dkt. No. 1 at ¶2). Taiwan is not a signatory of the Hague Convention. (<https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/Taiwan.html#:~:text=Service%20of%20process%20in%20Taiwan,travel%20officer%20at%20the%20AIT.>).

After three previous attempts at service of the summons and complaint (described below), TurboCode began a fourth attempt on October 2, 2024, by mailing the summons and complaint for service on the Secretary of State of Texas by Certified Mail, Return Receipt Requested. This method of service is proper pursuant to the following rules. Under Rule 4(h)(1)(A), “a domestic or foreign corporation... must be served in the manner prescribed by Rule 4(e)(1) for serving an individual....” Under Rule 4(e)(1), Fed.R.Civ.P., “an individual . . . may be served in a judicial district of the United States by following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located....” Section 17.044(b)

of the Texas Civil Practice and Remedies Code provides that “[t]he secretary of state is an agent for service of process on a nonresident who engages in business in this state, but does not maintain a regular place of business in this state or a designated agent for service of process, in any proceeding that arises out of the business done in this state and to which the nonresident is a party.”

Furthermore, a non-resident does business in Texas if it “commits a tort in whole or in part in [Texas]....” *Id.* at § 17.042(2). Patent infringement is a tort so the sale of infringing products in Texas is sufficient evidence that Defendant is doing business under the Texas service statute. *Aten Int'l Co. v. Emine Tech. Co.*, 261 F.R.D. 112, *121, 2009 U.S. Dist. LEXIS 53764, **18 (E.D. Texas 2009). TurboCode is awaiting the return receipt from the Secretary of State.

The following are the prior attempts of service of the summons and complaint:

- TurboCode’s first attempt for service was on June 20, 2024, pursuant to Rule 4(f)(2)(C)(ii), Fed.R.Civ.P. (in accordance with Rule 4(h)(2), Fed.R.Civ.P.), the Clerk for the U.S. District Court for the Eastern District of Texas, Sherman Division, sent a FedEx package requiring signature containing the summons and complaint to Advantech addressed to Advantech’s corporate headquarters in Taiwan. On July 2, 2024, Advantech refused delivery, and the FedEx package was returned.
- TurboCode’s second attempt at service was on July 15, 2024, pursuant to Rule 4(f)(2)(A), Fed.R.Civ.P., TurboCode sent the summons and complaint by first class international registered mail, return receipt requested to Advantech’s headquarters in Taiwan. As of October 7, 2024, TurboCode has not received the return receipt confirming delivery.

- TurboCode's third attempt of service on August 22, 2024, TurboCode sent the summons and complaint using United States Postal Service Priority Mail Express International to Advantech's headquarters in Taiwan. The package was marked as "Refused" by Advantech and returned to sender.

Plaintiff will provide another status report in 30 days if service has not been completed.

October 7, 2024

DIRECTION IP LAW

/s/ David R. Bennett

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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2024, I electronically filed the above documents with the Clerk of Court using CM/ECF which will send electronic notification of such filings to all registered counsel.

/s/ David R. Bennett
David R. Bennett